

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MELVIN LATIMORE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:07 CV 864 DDN
	)	
SCHWAN'S INC.,	)	
	)	
Defendant.	)	

**ORDER**

This matter is before the Court for examination pursuant to Rule 4(m), Federal Rules of Civil Procedure.

Plaintiff commenced this action on April 30, 2007, naming Schwan's Inc., as defendant. A review of the Court file shows that defendant has not been served in this matter nor has service been waived on its behalf. Under Rule 4(m), Federal Rules of Civil Procedure, the Court, after notice to the plaintiff, is directed to dismiss an action against a defendant upon whom service has not been made within 120 days after the filing of the complaint.

The Rule 4(m) period for service expires August 28, 2007, 120 days after the filing of plaintiff's complaint.

Therefore,

**IT IS HEREBY ORDERED** that plaintiff shall file proof of service on defendant not later than August 28, 2007. In the absence of good cause shown, failure to timely serve said defendant shall result in the dismissal of plaintiff's claims as to said defendant without prejudice.

/S/ David D. Noce  
**UNITED STATES MAGISTRATE JUDGE**

Signed on July 31, 2007.